

**Remarks**

This is a response to the Office Action dated July 2, 2003. Preliminarily, it is noted that a number of formality objections and rejections were raised in the Office Action. These have been addressed and are discussed in detail below. The applicants wish to thank the Examiner for the courtesy shown to their representative, Jonathan H. Spadt, in a telephone conversation on July 8, 2003 during which many of these rejections and objections were discussed.

It is noted with appreciation that claims 1-30 and 40-42 are free from any rejection based upon the prior art of record. Claims 31-39 have been cancelled without prejudice and the applicants expressly reserve all rights to file one or more continuations or divisional applications directed to these claims.

Claim 40 has been amended to correct an antecedent basis issue. Withdrawal of the rejection of claims 40-42 under 35 U.S.C. § 112 is therefore respectfully requested.

It is also noted that FIGs. 16 and 17 have been amended and a replacement sheet for these figures is submitted herewith. Withdrawal of this rejection is respectfully requested.

**Copy of Terminal Disclaimer**

A copy of the Terminal Disclaimer filed in the prosecution of U.S. Patent No. 5,855,598 (the patent for which this Reissue is sought) is included per the Examiner's request.

**Copy of Assignment**

A copy of the assignment from Yasushi Kato and Rysler Alcime referred to in the Consent of Assignee document filed with this reissue application is included with this response. It is further noted that this assignment was recorded with the United States Patent and Trademark Office on September 25, 2000 at Reel 011085 Frame 0978. This confirms that Corvita Corporation owns the entire right, title, and interest to U.S. Patent No. 5,855,598, including any reissues thereof. It is further noted here that the applicant's Petition for Correction of Inventorship of Patent No. 5,855,598, which was filed along with this Reissue application, is still awaiting grant, despite the fact that it has been nearly 3 years since the

application and Petition were filed and the applicants have now received an Office Action on the merits of the present Reissue application naming the three inventors.

### **Information Disclosure Statement**

The applicants have also included herewith a form PTO-1449 listing all of the references cited in U.S. Patent No. 5,855,598, per the request of the Examiner. It is noted, however, that the applicants do not believe that any certification or fee is necessary because no IDS or 1449 is necessary. In the event the PTO disagrees, however, an authorization to charge the deposit account accompanies the IDS.

### **Certificate of Correction**

Corrections made in the Certificate of Correction after issuance of U.S. Patent No. 5,855,598 are also made herein without bracketing or underlining as requested by the Examiner. A copy of the Certificate of Correction is enclosed for the Examiner's convenience. Substitute sheets which have the corrections made are also included in accordance with a telephone conversation with the Examiner on July 8, 2003.

### **Supplemental Reissue Oath/Declaration**

An unexecuted Supplemental Reissue Oath/Declaration is submitted herewith to further identify the at least one error which is relied upon to support the reissue application. A fully executed Supplemental Reissue Oath/Declaration will be submitted upon execution. Specifically, the Supplemental Reissue Oath/Declaration recites that, in addition to the error of not claiming all that they had a right to claim, the applicants are specifically seeking to broaden at least two aspects of the '598 patent which were unduly and erroneously narrow. The second error listed is directed to withdrawn claims 31-35. The first error listed concerns a broadening of what was originally in claim 1 of the '598 patent. Claim 40 is essentially original claim 1 but is broadening to some degree. Claim 40 recites that the trunk liner has a "generally cylindrical body portion and two leg portions" whereas the liner of claim 1 is required to have "a generally cylindrical upper body portion, at least two leg portions, and a generally cylindrical lower body portion . . . ." Claim 40 is supported in the specification at column 12, lines 11-13, where it is stated that the trunk component "includes a common trunk portion and a branched portion."

See also lines 50-54. Note also that the specification includes both the supportive component and liner as a part of the trunk component. See column 12, lines 60-62. Figures 22-25, it is noted, are only "embodiments" of this trunk which also have a "further common trunk portion located opposite the other common trunk portion," which embodiments became the basis for original claim 1.

Thus, at least one error which forms the basis of this reissue is the fact that the original attorney did not realize that the trunk liner is not required to have both upper and lower body portions that surround the leg portions. This error is corrected in the current reissue, namely in claim 40 and its dependent claims 41-42.

Although legally unnecessary, the applicants provided a second error which forms the basis of additional claims sought in this reissue in an attempt to avoid confusion in the future. This second basis of error supports the claims directed to the method of forming the bifurcation by indenting, which claims will likely be sought in a divisional reissue because the Examiner withdrew them from consideration in this reissue prosecution.

### **Status of the Claims and Support for the Claim Changes**

The "status of the claims and support for claim changes" requirements enumerated in 37 C.F.R. § 1.173 (which were not in effect on September 5, 2000 when this application was filed) are met now with the following comments. Specifically, the claim status of each pending claim 1-30 and 40-42 is indicated on an attached sheet, with claims 31-39 indicated as cancelled without prejudice.

As to support, claims 1-30 are unchanged from issued Patent No. 5,855,598. As noted above, claims 40-42 are directed to essentially the same device as originally claimed, but claim 40 is broader than claim 1 in that Claim 40 recites that the trunk liner have a "generally cylindrical body portion and two leg portions" whereas the liner of claim 1 is required to have "a generally cylindrical upper body portion, at least two leg portions, and a generally cylindrical lower body portion . . . ." As noted above, claim 40 is supported in the specification throughout, especially at column 12, lines 11-13, where it is stated that the trunk component "includes a common trunk portion and a branched portion." See also lines 50-54. Note also that the specification includes both the supportive component and liner as a part of the trunk component. See column 12, lines 60-62.

As to the restriction requirement and the accompanying unilateral withdrawal of claims 31-39 as being directed to a "non-elected invention" despite the fact that the applicants made no such election, it is respectfully noted that these claims have been cancelled herein but that the applicants reserve all rights to file continuations and/or divisional application(s) directed to those claims, without prejudice.

### **Conclusion**

The applicants respectfully assert that all objections and rejections have now been obviated and that all requirements and requests have been satisfied (with the exception of the Executed Supplemental Oath/Declaration which will be submitted forthwith). A notice of allowance of a Reissue Patent with claims 1-30 and 40-42 is respectfully requested.

Respectfully submitted,



---

Jonathan H. Spadt, Reg. No. 45,122  
Attorney for Applicants

JHS/dhm

Attachments: Figures 14-17 (1 sheet)  
Copy of Terminal Disclaimer  
Copy of Assignment  
PTO-1449  
Copy of Certificate of Correction  
Copy of patent columns with insertion of corrected text  
Supplemental Reissue Oath/Declaration

Dated: October 1, 2003

Appln. No.: 09/657,041  
Amendment Dated October 1, 2003  
Reply to Office Action of July 2, 2003

BSI-430US8

☒ P.O. Box 980  
Valley Forge, PA 19482  
(610) 407-0700

☐ P.O. Box 1596  
Wilmington, DE 19899  
(302) 778-2600

The Commissioner for Patents is hereby  
authorized to charge payment to Deposit  
Account No. **18-0350** of any fees associated  
with this communication.

I hereby certify that this correspondence is being deposited  
with the United States Postal Service as first class mail,  
with sufficient postage, in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450 on:

October 1, 2003

Denise H. Maysa